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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/636,048 | 08/07/2003 | Eghart Fischer | P03,0273 | 1026 |

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| EXAMINER | |
|---|---|
| DABNEY, PHYLESHA LARVINIA | |
| ART UNIT | PAPER NUMBER |
| 2614 | |

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|---|---|---|
| 3 MONTHS | 03/19/2007 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/636,048 | FISCHER ET AL. | |
| | Examiner | Art Unit | |
| | Phylesha L. Dabney | 2614 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *20 September 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1, 3-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

This action is in response to the application filed on 29 December 2006 in which claims 1-14 are pending.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for information specifically coded for *changing the parameters of the hearing* (paragraph ,0011) does not reasonably provide enablement for being "devoid of information specifically encoded for the hearing aid" (claim language). The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims.

The specification appears to teach away from what is the claimed language.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexandrescu (U.S. Patent NO. 5,909,497) in view of Applicant's Specification.

Regarding claims 1, 5, and 7, Alexandrescu teaches a hearing aid device (figs. 1-8) comprising: at least one input transducer (11, 21) configured to acquire an input signal (13) and transduce it into an electrical signal (15); a detector (41 in conjunction with 53; col. 8 lines 5-18) for detecting a line signal output by a screen device (col. 8 lines 5-18); a signal processing unit (5) configured to process and amplify the electrical signal, the signal processing unit being adaptable to different auditory situation (arenas, halls, televisions, etc.; col. 8 lines 5-44) by at least one adjustable parameter (parameters; col. 8 lines 10-18) that can be automatically adjusted dependent on the line signal (automatic; col. 8 lines 25-44); and an output transducer (33) to transduce the processed electrical signal into an acoustic or mechanical output signal.

Alexandrescu does not specifically teach the signal is a line signal that deflects an electron beam generated in an image tube.

However, since line frequencies are well-known world standards for television devices (applicant's specification pages 2-3) and it is known for an electron beam generated in an image tube to be deflected by a line signal with a particular frequency (applicant's specification pages 2-3), it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement any of the known world standards for use in the device along a line signal in the invention of Alexandrescu to minimize the need for additional programming algorithms to compensate for deviation from the normal and widely accept standards.

Regarding claims 3-4, Alexandrescu teaches a threshold value, wherein a signal strength

of the line signal can be detected and compared with the threshold value to automatically adjust the parameter upon exceeding the threshold value (col. 8 lines 5-18, where the device comprehends the concept of loud volume and adjusts the parameters).

Regarding claim 6, Alexandrescu inherently teaches an adjustment mechanism permitting adjustment of the value or the value interval (see claim 1 above).

Regarding claims 8 and 11-12, Alexandrescu teaches a hearing aid device (figs. 1-8) comprising: at least one input transducer (11, 21) configured to acquire an input signal (13) and transduce it into an electrical signal; a detector (41 in conjunction with 53; col. 8 lines 5-18) for detecting a signal output by a screen device (col. 8 lines 5-18); a signal processing unit (5) configured to process and amplify the electrical signal, the signal processing unit being adaptable to different auditory situation (arenas, halls, televisions, etc.; col. 8 lines 5-44by at least one adjustable parameter (parameters; col. 8 lines 10-18) that can be automatically adjusted dependent on the signal (automatic; col. 8 lines 25-44); and an output transducer (31) to transduce the processed electrical signal (33) into an acoustic or mechanical output signal, wherein the screen device is a television device and the detector is configured to detect a signal output by the television device.

Alexandrescu does not specifically teach the signal is a line signal that deflects an electron beam generated in an image tube, and an automatic adjustment of the parameter ensues when the line signal frequency is 15.625 KHZ or 15.734 KHz.

However, since these frequencies are well-known world standards for television devices (applicant's specification pages 2-3) and it is known for an electron beam generated in an image tube to be deflected by a line signal with a particular frequency (applicant's specification pages 2-3), then it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement any of the known world standards for use in the device along a line signal in the invention of Alexandrescu to minimize the need for additional programming algorithms to compensate for deviation from the normal and widely accept standards.

Regarding claim 9, Alexandrescu teaches the parameter can automatically be adjusted given a detected line signal, and the parameter can be set back to its original value when the line signal can no longer be detected as further suggested in column 8..

Regarding claim 10, it teaches a method corresponding the apparatus taught in claim1. The method is inherent in that it simply provides a methodology for the logical implementation found in claims 1, 3-7, and 9.

Regarding claims 13-14, Alexandrescu teaches a hearing aid device (figs. 1-8) comprising: at least one input transducer (11, 21) configured to acquire an input signal (13) and transduce it into an electrical signal; a detector (41 in conjunction with 53; col. 8 lines 5-18) for detecting solely a signal output by a screen device (col. 8 lines 5-18); a signal processing unit (5) configured to process and amplify the electrical signal, the signal processing unit being adaptable to different auditory situation (arenas, halls, televisions, etc.; col. 8 lines 5-44by at least one

adjustable parameter (parameters; col. 8 lines 10-18) that can be automatically adjusted dependent on the signal (automatic; col. 8 lines 25-44); and an output transducer (31) to transduce the processed electrical signal (33) into an acoustic or mechanical output signal, wherein the screen device is a television device and the detector is configured to detect a signal output by the television device.

Alexandrescu does not specifically teach the signal is a line signal

However, since these frequencies are well-known world standards for television devices (applicant's specification pages 2-3), and it is known to use a line signal for a television, then it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement any of the known world standards for use in the device along a line signal in the invention of Alexandrescu to minimize the need for additional programming algorithms to compensate for deviation from the normal and widely accept standards.

***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive.

With respect to the Applicant's arguments that Alexandrescu fails to teach or suggest *a screen device that is devoid of any information encoded specifically for the hearing aid device*," the Examiner disagrees.

The Applicant's specification teaches changing parameters of the hearing aid (paragraph, 0011) using a television signal such that algorithm within the hearing aid allow static noise.

Alexandrescu also teaches changing the parameters of the hearing aid using a television signal. Therefore, the rejection is maintained.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

**Any response to this action should be mailed to:**
Commissioner of Patents and Trademarks
P O Box 1450
Alexandria, VA 22313-1450

**Or faxed to:**
(703) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

**Hand-delivered responses should be brought to:**
Customer Service Window
Randolph Building
401 Dulany Street

Alexandria, VA 22314

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 14, 2007

PLD